

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 1999-349-C - ORDER NO. 2000-0189
MARCH 22, 2000

IN RE: Application of Twister Communications) ORDER
Network, Incorporated For A Certificate of) GRANTING
Public Convenience and Necessity to Provide) CERTIFICATE FOR
Intrastate Resold Telecommunications) LONG DISTANCE
Services Within the State of South Carolina.) AUTHORITY

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Twister Communications Network, Inc. ("Twister" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide intrastate resold telecommunications services between and among locations within the State of South Carolina as a non facilities-based interexchange telecommunications service provider. The Company's Application was filed pursuant to S.C. Code Ann. § 58-9-280 and 58-9-520 (Supp. 1999) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Twister to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Twister's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the

Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on January 19, 2000, at 2:30 p.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable Philip T. Bradley, Chairman, presided. Bonnie D. Shealy, Esquire represented the Company. Jocelyn D. Green, Staff Counsel, represented the Commission Staff.

Michael Simms, Director of Telecommunications Operations for Twister, appeared and testified in support of the Application. As Director of Telecommunications Operations for Twister Communications Network, Inc., Mr. Simms is primarily responsible for directing all activities of Twister relating to the fiber optic and multimedia networking product issues. Twister Communications Network, Inc. was incorporated in Texas on December 6, 1996. On June 22, 1999, Twister was granted authority by the Secretary of State of South Carolina to transact business in South Carolina as a foreign corporation.

The testimony reveals that upon receiving certification from this Commission, Twister will offer resold long distance (1+) service and prepaid debit card services, twenty-four hours a day, seven days a week. The record reveals Twister will offer its long distance services to business and residential customers. The Company's travel card and debit card services allow customers to place direct dialed calls to terminating locations from locations other than their home or normal place of business; a special access number and personal identification number are used by Twister's prepaid card customers.

Mr. Simms provided evidence of Twister's financial, technical, and managerial ability to provide telecommunications services in South Carolina. Simms testified Twister's management personnel have sufficient managerial, technical, marketing, and administrative experience to operate as a reseller within the State of South Carolina. The Company's management team includes Kamal Alavi (Founder and President), David Bloh (Chief Operating Officer and Vice President of Sales), Philip Kohler (Chief Financial Officer), Dale Armet, and Mr. Simms. Mr. Simms also testified Twister is financially able to provide telecommunications services in South Carolina. The costs the Company expects to incur as a result of offering its telecommunications services in South Carolina include cost of certification, initial marketing, and incremental per-call costs assessed by the Company's underlying carriers for switching and transporting calls.

Regarding the Company's technical ability to offer telecommunications services in South Carolina, Twister will rely on its underlying carrier's technical expertise for the operation, maintenance, and supervision of the network. The record reveals the Company has also entered into contracts with outside consultants for support in competitive analysis and regulatory compliance. The underlying carriers Twister will utilize in South Carolina include IXC and MCI.

Twister's customer service department handles billing and customer service inquiries. The Company's customer service telephone number appears on each customer's bill. As of the date of the hearing, the testimony reveals Twister will market its services through direct mail or direct sales (billboards, radios, and magazines); the Company does not plan to engage in telemarketing in South Carolina. The record also

reveals Twister is operating in good standing in all the states where it has received certification to provide its telecommunications services; the Company has never been denied authority to provide its telecommunications services, nor has the Company had authority revoked in a state where it has been granted authority. Twister has been granted authority to provide its telecommunications services in the following states: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nevada, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Virginia, and Utah.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Twister is organized as a corporation under the laws of the State of Texas and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. Twister operates as a non facilities-based reseller of interexchange services and wishes to provide its services in South Carolina.
3. Twister has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Twister to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Twister for its resale of interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Twister shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. Twister shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16,

1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 1999).

4. If it has not already done so by the date of issuance of this Order, Twister shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. Twister is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Twister shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Twister changes underlying carriers, it shall notify the Commission in writing.

8. Twister shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A. Be advised that the

Commission's annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses.

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Twister shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

10. As a condition of offering debit card services, the Commission requires the Company to post with the Commission a bond in the form of a Certificate of Deposit worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or a surety bond in the amount of \$5,000 which is payable to the Commission. The Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition may be reviewed annually.

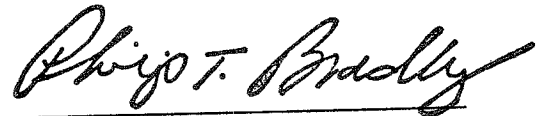
11. If the Company sells its debit cards to retail establishments for resale of the debit cards, and the retailer of the debit cards deviates from the suggested retail price as filed in the tariff, or as approved by the Commission in a special promotion, then the Company will withdraw its cards from that retail outlet. This Commission strongly suggests that the Company enter into written agreements with its South Carolina retail outlets regarding this policy of abiding by suggested retail pricing prior to the outlet marketing the card.

12. With regard to the origination and termination of toll calls within the same LATA, Twister shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dial parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

13. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

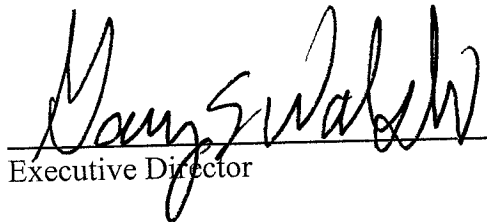
14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:


Executive Director

(SEAL)

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ATTACHMENT A

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'

COMPANY NAME

FEIN

ADDRESS PHONE NUMBER

CITY, STATE, ZIP CODE FAX NUMBER

1. SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31, OR FISCAL YEAR. \$ _____
2. SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31, OR FISCAL YEAR. \$ _____
3. RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS FOR THE 12 MONTHS
ENDING DECEMBER 31, OR FISCAL YEAR. \$ _____
4. PARENT'S CAPITAL STRUCTURE FOR THE 12 MONTHS ENDING
DECEMBER 31, OR FISCAL YEAR. \$ _____
5. PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND EMBEDDED
COST PERCENTAGE (%) _____
6. ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT OF
EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS METHOD OF
ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3 ABOVE).
7. **CONTACT PERSON FOR ALL FINANCIAL INQUIRIES AND REPORTING:**

NAME _____

ADDRESS (IF DIFFERENT FROM COMPANY) _____

TELEPHONE NUMBER _____

SIGNATURE

NAME PLEASE PRINT OR TYPE

TITLE

AUTHORIZED UTILITY REPRESENTATIVE INFORMATION

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION REGULATION
103-612.2.4(b) - Each utility shall file and maintain with the Commission the name, title, address, and telephone number of the persons who should be contacted in connection with General Management Duties, Customer Relations (Complaints), Engineering Operations, Test and Repairs, and Emergencies during non-office hours.

Company Name (Including dba Name(s) or Acronyms used or to be used in South Carolina)

Business Address

City, State, Zip Code

A.

General Manager Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

B.

Customer Relations (Complaints) Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

C.

Engineering Operations Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

D.

Test and Repair Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

E.

Contact for Emergencies During Non-Office Hours (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

F.

Financial Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

G.

Customer Contact Telephone Number for Company (Toll Free)

This form was completed by

Signature

**If you have any questions, contact the Consumer Services Department (803-896-5230)
or Utilities Department at (803-896-5105).**

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Business Address

City, State, Zip Code

- A. _____
General Manager Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address
- B. _____
Customer Relations (Complaints) Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address
- C. _____
Engineering Operations Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address
- D. _____
Test and Repair Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address
- E. _____
Contact for Emergencies During Non-Office Hours (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address
- F. _____
Financial Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address
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Signature

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